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**Transmission by Facsimile**

Gloria Blue  
Executive Secretary  
Trade Policy Staff Committee  
Office of the U.S. Trade Representative  
600 17th Street, N.W.  
Washington, DC 20508

**Re: ~~Section 203 Proceeding on Certain Steel Products; Comments on Exclusion of Carbon Steel Butt-Weld Pipe Fitting Forgings~~**

Dear Ms. Blue:

I am writing this letter in response to a request to exclude products from any remedy that the President may impose. My company, Awaji Sangyo (Thailand) Co., Ltd. is a producer of carbon and alloy steel butt-weld pipe fittings (BWPF) in Thailand.

Awaji supports an exclusion of carbon steel butt-weld pipe fitting forgings from any remedy for the following reasons: (1) fitting forgings should be excluded consistent with the exclusion of carbon flange fittings in this 201 investigation, (2) imports of fitting forgings are not available on the domestic commercial market, and thus, unrestricted imports are imperative for every integrated producer to have the same opportunity to make and purchase forgings to compete effectively in the BWPF market; and (3) circumvention is unlikely to occur due to the high capital cost of the equipment required to finish fitting forgings, the possession of which is limited to integrated domestic fittings producers. Notably, the fact that a domestic producer, Weldbend, is

requesting an exclusion for this product shows strong domestic support and the necessity for the exclusion of these fitting forgings.

**Carbon Steel Fitting Forgings Should Be Excluded Consistent with the Exclusion of Carbon Steel Flange Forgings in This 201 Investigation**

Fitting forgings (unfinished fittings) should be excluded consistent with the exclusion by U.S. Trade Representative of carbon steel ~~flange~~ forgings (HTSUS 7307.91.1000) in this 201 investigation.<sup>1</sup> As representatives from U.S. producer Weldbend testified before the U.S. International Trade Commission ("the Commission"), it is highly inconsistent to exclude flange forgings but not fitting forgings, since the two types of forgings exist for precisely the same purpose. Mayer Brown Exclusion Request, November 13, 2001 ("Mayer Brown") at 6 and Tr. 741. Forgings for flanges is to BWPF as flanges forgings are to finished flanges, and similar steps must occur in each set of products after the forming stage in order to transform the forgings into a finished product. *Id.* The fact that the unfinished carbon flange forgings were not included in this investigation is strong evidence supporting the necessity of an exclusion of the similarly unfinished fitting forgings.

Awaji agrees with Weldbend that the President should reject as any recommendation of import relief that covers fitting forgings solely because fitting forgings share a tariff classification with finished fittings. Instead, the Customs Service could readily apply the same description to forgings of fittings ("not machined, not tooled, and not otherwise processed after forging") to distinguish carbon steel flange forgings from finished flanges for purposes of tariff classification.<sup>2</sup>

**In the Absence of Imported Fittings Forgings, Butt-Weld Pipe Forgings Would Not Be Available, Since A Domestic Commercial Market For Such Forgings Does Not Exist**

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<sup>1</sup>In the International Trade Commission's 201 investigations, "Carbon and Alloy Tubular -- Flanges, Fittings and Tool Joints" include the tariff classifications covering carbon steel butt-weld pipe fittings (and forgings), under the subheadings of HTSUS 7307.93.3000 and 7307.93.9030.

<sup>2</sup>Fitting forgings may be described as "fittings not machined, not tooled, and not otherwise processed after forging," similar to the physical description for finished carbon steel flanges (HTSUS 7307.91.5030 and 7307.91.5070), as distinct from carbon steel ~~flange~~ forgings. (HTSUS 7307.91.1000).

Moreover, a commercial market for fitting forgings does not exist in the U.S. market, necessitating imports of forgings so that integrated producers have the same opportunity to make and purchase forgings needed to compete effectively in the BWPF market. Mayer at 4. With the imposition of a remedy on fitting forging imports, Weldbend would be forced to turn to its domestic competitors in order to source forgings in sizes it does not have capacity to produce. Mills Iron Works, Trinity Fitting Group, and Tube Forgings of America are the only domestic producers of forgings, and internally consume all the forgings they produce. *Id.* at 3. Indeed, most domestic integrated producers do not have the capacity to supply Weldbend with the substantial volume and quality that Weldbend requires.<sup>3</sup> *Id.* at 7. Given the on-unavailability of fitting forgings domestically, including these products in 201 relief would have a negative effect on the U.S. industry's adjustment to import competition.<sup>4</sup>

Although Trinity Fittings Group testified before the U.S. International Trade Commission that it would be willing to sell forgings to Weldbend, it did not specify the relatively high price level that it would offer. Tr. at 747. Weldbend's discussions with Hackney (currently part of Trinity Fittings Group) included recent price quotations for a particular BWPF forgings product that show pricing levels that are clearly not competitive. Mayer at 8. As Weldbend stated, "these competitors have no interest in supplying Weldbend with fitting forgings at a price that would make Weldbend competitive in the finished market." *Id.* at 4. Therefore, Weldbend would be placed at a severe competitive disadvantage if fittings forgings were not excluded from import relief.<sup>5</sup> Thus, the exclusion of import restrictions on imports of butt-weld pipe fittings forgings are essential if Weldbend's butt-weld pipe fittings are to remain competitive with other finished BWPF producers, and Weldbend's own adjustment plans pursuant to section 201 relief are to be realized.

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<sup>3</sup>Awaji exports its fitting forgings exclusively to Weldbend, although it previously sold to Hackney (currently part of Trinity Fitting Group) and Tube Forgings of America. This provides further evidence that there is no commercial market for such forgings in the United States. Weldbend also stated that it believed that both Trinity and Tube Forgings of America have purchased imported fitting forgings over the years to fill in gaps in their own forging capacities, based on market information. Mayer at 4

<sup>4</sup>The U.S. International Trade Commission has recognized that "products that are either not available from domestic suppliers or are not available in commercially significant volumes" should not be subject to import restrictions. Certain Steel Wire Rod, Inv. 201-TA-69, USITC Pub. 3207 at I-56 (July 1999).

<sup>5</sup>Parties supporting the domestic industry attempt to convince the Commission that price, not supply, is Weldbend's concern, but the capacity to supply fittings forgings for the U.S. commercial market is clearly nonexistent. Harris at 17.

**Circumvention of Fitting Forgings Is Unlikely to Occur Given that the Process to Form A Finished Fittings Requires Capital Intensive Equipment Possessed by Integrated Domestic Fittings Producers**

Certain domestic producers are concerned that an exclusion of forgings would lead to circumvention by foreign producers shipping fittings into the U. S. in an unfinished state, only to be transformed into finished BWPF, thereby hampering section 201 relief. Harris Ellsworth Prehearing Brief, October 30, 2001 ("Harris") at 18 and Tr. at 748. Circumvention is simply unlikely to occur. First, integrated domestic producers of fittings have the capability to finish forgings.<sup>6</sup> The equipment necessary to finish butt-weld pipe forgings into finished BWPF is highly capital intensive, and a significant investment is required to invest in a plant, as well as forging machinery. Mayer at 7. Consequently, it is not likely that additional capacity to finish forgings by other producers will become available in the United States, whereby increased imports of fitting forgings could be manufactured and the order could be circumvented.

Second, significant processing on capital intensive equipment occurs to finish a forging into a finished BWPF product. Mayer at 7. Parties supporting the domestic industry would like to convince the Commission that unfinished imports could be converted into finished fittings by means of "minor processing in a machine shop" and thus circumvent the remedy imposed. *Id.* at 9, fn. and Tr. at 748. The processes to convert a forging into a finished fittings include shot-blasting, beveling, boring and tapering, grinding, marking, coating and inspecting. Mayer at 2. *See also* Tr. at 838. These processes clearly do not qualify as minor operations. Notably, the total capital investment in equipment for the finishing process of fittings is 35 percent of the total investment for equipment to produce BWPF according to Awaji. Significant investment is needed particularly for beveling machines. Thus, the finishing operations of forgings do not involve "minor processing in machine shops," but instead encompass extensive finishing operations that take place on expensive multi-stage machinery.

Other domestic producers claim that excluding fitting forgings from import relief would permit importation of "almost finished" fittings, thereby circumventing any remedy against finished fittings. Mayer at 9, fn. 8. As described above, fitting forgings are not "almost finished" and require substantial further manufacturing, involving a significant amount of capital, to be made into finished

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<sup>6</sup>In fact, to Awaji's knowledge, there are not any companies that have the ability to finish a forging other than integrated finishing producers.

BWPF. Mayer at 9, fn. 8. In fact, according to Awaji, an approximately equal percentage of labor (direct and indirect) and overhead expenses is incurred in the forming stages of a forging as is incurred in the finishing stages. In sum, significant costs and processing steps must occur in order to finish forgings, for which only U.S. integrated producers have the equipment to undertake. Circumvention is thus highly unlikely.

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Fitting forgings, thus, should be excluded from the scope of remedy consistent with the exclusion of flange forgings in this 201 investigation. The exclusion of fitting forgings would provide a limited supply of forgings necessary to certain domestic producers to fill capacity gaps and allow every integrated producer to compete effectively in the market for finished fittings. The volume of imported forgings is likely to remain low since the use of imported forgings is limited solely to gaps in integrated domestic producers' capacity. Notably, there is no record evidence showing that domestic producers would be harmed by the exclusion of fitting forgings from any remedy for finished BWPF.<sup>7</sup> Since a U.S. commercial market for forgings does not exist, imports of fitting forgings are imperative for certain domestic producers, and hence, these imports should be excluded from any remedy actions, as recognized by the Commission in its Certain Steel Wire Rod decision described in footnote 4 of this submission.

The President should exercise his authority under Section 203 and carve out fitting forgings from the scope of the remedy, if any, that is recommend for carbon steel alloy butt-weld pipe fittings.

Respectfully submitted,

Takahiko Mio

President, Awaji Sangyo (Thailand) Co., Ltd.

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<sup>7</sup>There is no basis on which to determine whether imports of fitting forgings increased or caused injury to the domestic industry. In particular, there are no official import statistics for forgings, and trade and financial data were not collected by the U.S. International Trade Commission on that basis. Specifically, no pricing data were collected by the Commission for fitting forgings, invalidating domestic parties' statement that imported forgings undersold domestic forgings. Harris at 15. Furthermore, it would be impossible for the Commission to collect domestic pricing data due to the lack of a commercial market for forgings.